

XEROX®**FACSIMILE COVERSHEET****RECEIVED
CENTRAL FAX CENTER
JAN 20 2005****TO:**

MAIL STOP Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: 703-872-9306

TOTAL NUMBER OF PAGES (including cover sheet): 4**FROM:**

Thomas Zell
Xerox Research Centre Europe
6 Chemin de Maupertuis
38240 Meylan France
Tel.: 011-33-476615112 or 650-812-4282
Email: tzell@xrce.xerox.com

RE:**CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being facsimile
transmitted to the Patent and Trademark Office to
Fax No. 703-872-9306 on January 20, 2005.

Thomas Zell

(Typed or printed name of person signing this certificate)

Thomas Zell (Signature)

Application No. : 09/033,222
Filed : March 2, 1998
Inventor(s) : Hogg et al.
Docket No. : D/98093
Confirmation No. : 1837
Examiner : J. Shapiro
Art Unit : 3653
Title : **DISTRIBUTED CONTROL SYSTEM WITH GLOBAL
CONSTRAINTS FOR CONTROLLING OBJECT
MOTION WITH SMART MATTER**
Customer No. : 25453

IMPORTANT/CONFIDENTIAL: This message is intended only for the use of the individual or entity to which it is addressed. This message contains information from the Office of General Counsel of Xerox Corporation which may be privileged, confidential and exempt from disclosure under applicable law which is not waived due to misdelivery. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at the telephone number set forth above. We will be happy to arrange for the return of this message via the United States Postal Services to us at no cost to you.

RECEIVED
CENTRAL FAX CENTER

JAN 20 2005

1+33 0470613199

27 1

PATENT APPLICATION
Attorney Docket No. D/98093

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being
facsimile transmitted to the Patent and Trademark
Office to Fax No. 703-872-9306 on January, 20, 2005.

Thomas Zell

(Typed or printed name of person signing this
certificate)

Thomas Zell (Signature)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Hogg et al.

)
)
)
)
)

Art Unit: 3653

Appl. No.: 09/033,222

Appeal No.: 2003-1580

Filed: March 2, 1998

Examiner: J. Shapiro

**Title: DISTRIBUTED CONTROL SYSTEM WITH GLOBAL CONSTRAINTS
FOR CONTROLLING OBJECT MOTION WITH SMART MATTER**

MAIL STOP Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**SUPPLEMENTAL REPLY BRIEF
IN RESPONSE TO SUPPLEMENTAL EXAMINER'S ANSWER**

Sir:

Applicant respectfully submits this Supplemental Reply Brief in the appeal of the present case to the Board of Appeals and Patent Interferences in response to the Supplemental Examiner's Answer mailed November 24, 2004.

Appl. No. 09/033,222

I. Response To Supplemental Examiner's Answer

1. Response To First Issue On Appeal

The first issue on appeal is whether claims 1-20 are unpatentable under 35 USC §103(a) over Satoshi Konishi and Hiroyuki Fujita, entitled "A Conveyance System Using Air Flow Based on the Concept of Distributed Micro Motion Systems", published in the Journal of Microelectromechanical Systems, Volume 3., No. 2, pages 54-58, June 1994 (hereinafter referred to as "Fujita") in view of Harada et al., U.S. Patent No. 5,553,003 (hereinafter referred to as "Harada").

Appellant respectfully submits that the arguments presented concerning the rejection of claims 1-20 under 35 USC §103(a) as being unpatentable over Fujita in view of Harada on page 2, line 1 to page 7, line 3, in the Supplemental Examiner's Answer (dated November 24, 2004) are identical to arguments presented on page 2, line 1 to page 7, line 19, in the Examiner's Answer (dated February 25, 2003), excluding lines 4-19, on page 4, of the Examiner's Answer (concerning the rejection of an article by Carlson, Gupta, and Hogg, entitled "Controlling Agents in Smart Matter with Global Constraints"). Accordingly, Appellant respectfully traverses the rejection of claims 1-20 under 35 USC §103(a) as being unpatentable over Fujita in view of Harada for the reasons set forth in section 8.1 of Appellant's Appeal Brief (dated November 18, 2002) together with points 2 and 3 of Appellant's Reply Brief (dated April 4, 2003).

2. Response to Second Issue On Appeal

The second issue on Appeal is whether claims 1-20 are unpatentable under the judicially created doctrine of obviousness-type double patenting over claims 1-6 of U.S. Patent No. 5,634,636. More specifically as set forth in §804 of the Manual of Patent Examining Procedures ("MPEP"), this second issue on appeal involves the determination of whether Appellant's invention recited in claims 1-20 are an obvious variation of the invention defined in claims 1-5 of the '636 Patent. Appellant respectfully maintains that the cited portions of the '636 Patent, set forth in last

Appl. No. 09/033,222

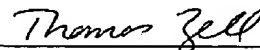
paragraph on page 8 in the Supplemental Examiner's Answer, fail to disclose or suggest Appellant's claims when read as a whole, for those reasons set forth in the first five paragraphs on page 13 of the Appellant's Appeal Brief.

Further, Applicant respectfully traverses the assertion on page 8, of the Supplemental Examiner's Answer, that the '636 Patent read in combination with Harada's disclosure/teaching of a hierarchical control system. In response thereto, Appellant submits that Harada read in combination of the '636 Patent (a) is consider improper for the same reasons the combination of Harada with Fujita is improper as set forth in section 8.1.A, starting on page 5 of the Appellant's Appeal Brief, and (b) fail to teach or suggest Appellant's claimed invention for the same reasons the combination of Harada with Fujita fail to teach or suggest Appellant's claimed invention as set forth in section 8.1.B, starting on page 6 of the Appellant's Appeal Brief.

II. Conclusion

Based on the arguments presented in Appellant's Appeal Brief, Appellant's Reply Brief and this Supplemental Reply Brief, applicant asserts that claims 1-20 are in condition for allowance. Applicant therefore urges the Board of Patent Appeals and Interferences to reverse the Examiner's final rejection of claims 1-20.

Respectfully submitted,



Thomas Zell
Attorney for Applicant
Registration No. 37,481
Telephone: 650-812-4282

Date: January 20, 2005